S. B. CIVIL WRIT PETITION NO. 5229/90
[General Insurance Employees' Association Vs. Union of India &Ors]

DATE OF ORDER : 18.07.2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. M. R. Singhvi with Mr. Anil Bhandari for the petitioner.
Mr. L. D. Khatri for the respondents Nos. 3 to 5.
Mr. R. Dave Dy. G. A.

This writ petition was filed in the year 1990 by "General Insurance Employees' Association – North Zone" through its Joint Secretary while impleading Union of India and General Insurance Corporation of India as respondents Nos. 1 & 2 respectively. The petitioner Association has referred to the General Insurance (Rationalization and Revision of Pay Scales and other conditions of service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974; and has questioned the legality and validity of the General Insurance (Rationalization and Revision of Pay Scales and other conditions of service of Supervisory, Clerical and Subordinate Staff) Amendment Scheme, 1985 that was published on 15.10.1985. It has been contended that there is a marked difference of emoluments in the two Schemes, i.e. of the year 1974 and of the year 1985; and it is submitted, inter alia, that there had been certain candidates who offered their candidature prior to coming into force of the said Scheme of 1985 and even the process of selection was over prior to 15.10.1985 but, unfortunately, some of the candidates were given appointments subsequent

to 15.10.1985 and they had been fixed in their basic pay under the impugned Scheme of the year 1985, whereby they had been put to great financial loss. It is contended that there had been discrimination amongst the persons who had undergone the same process of selection inasmuch as a few of them were given appointment prior to 14.10.1985 and thereby, their salary came to be fixed under the scheme of 1974; and while contending that the candidates referable to the same selection process cannot be put to differential treatment in the matters of their pay and emoluments, the petitioner has prayed and requested that -

> "1. the impugned scheme of 1985 may be quashed and set aside to the extent it prescribes the basic pay as Rs. 520/- and instead it may be declared as Rs. 610/-.
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> 2. in the alternative the respondents be directed to treat the persons who have offered their candidature and the process of selection was complete prior to 14.10.1985, as the existing employees under the Scheme of 1985 and may be given all advantages as prescribed for in the Scheme of 1985.
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> 3. by an appropriate writ, order or direction a proper direction may be issued to the respondents to evolve a formula so that the total emoluments which was paid to an employee on 14.10.1985 should in no way reduced and the same should also not affect the persons who have offered their candidature prior to 14.10.1985 and have also been selected.
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> 4. Any other relief(s) which this Hon'ble High Court deems just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner."

Later on, the petitioner moved an application for impleading other insurance companies as parties to this writ petition and the said application was allowed and four Insurance Companies were impleaded as respondents Nos. 3 to 6.

Another application has been moved on 26.10.2006 on behalf of three applicants, Ms. Veena Balwani, Vishnu Narain Arora, and Inder Singh Rajpurohit (I.A. No. 3848/06); and while stating facts in relation to the individual applicant, it has been stated that they had been put to disadvantageous position as they could not join prior 14.10.1985 and as such, they are aggrieved and interested persons in this writ petition.

Learned Counsel appearing for the respondents raised a preliminary objection regarding competence of this writ petition on behalf of the Association with the submissions that the Association has not shown having authorization to take up this cause so as to bind all the incumbents interested and that in view of the questions sought to be raised, the cause ought to be taken up by the individual concerned, if feeling aggrieved and if having any right to relief.

On being put to question about competence of this petition by and on behalf of the Association and on the observations made by the court that the cause sought to be taken up in this petition essentially concerns individual

employees and factual aspect in relation to any aggrieved person is required to be clarified and further that for its very nature, this litigation cannot be said to be available to be taken up by an Association, learned Counsel Mr. M. R. Singhvi appearing for the petitioner and the applicants in the first place attempted to argue on competence of this petition but then, in all fairness submitted that in the circumstances of the case the petitioner Association shall stand advised not to proceed with this petition any further and the applicants of I.A. No. 3848/06 shall also be advised not to proceed with their application but seeks liberty for the individual employees who might be having any cause of grievance to take up the matter for redress in accordance with law. Learned Counsel proposed that the individuals may be permitted to represent the matter and the employer concerned may take a decision on the representation after giving the concerned employee an opportunity of hearing. To the fair proposition so stated on behalf of the petitioner and the applicants, learned counsel Mr. L. D. Khatri appearing for the respondents Nos. 3 to 5, in equal fairness, did not put resistance and submitted that if and when any representation is submitted to the company, the same shall be decided on merits, dispassionately and objectively; and if necessary, after extending opportunity of hearing to the employee concerned.

In view of the submissions made by the learned counsel for the parties, more or less in consensus, and having regard to the overall facts and circumstances, this writ petition and the interlocutory application (I.A. No. 3848/06) are permitted to be withdrawn and are dismissed as such; but without prejudice to the rights of the individuals to make representations and take resort to appropriate remedies for redress of their grievances in accordance with law. No costs.

(DINESH MAHESHWARI), J.

Makwana